In the Supreme Court of the United States

OCTOBER TERM, 1933

No. 434

ADA L. BURROUGHS AND JAMES CANNON, JR., petitioners

v.

UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

MEMORANDUM FOR THE UNITED STATES

The United States does not oppose the issuance of a writ of certiorari in this case.

OPINIONS BELOW

The opinion of the District Court sustaining the demurrer to the indictment here involved appears at page 21 of the record. It has not been reported. The majority and dissenting opinions in the Court of Appeals (R. 26 and 35) have not been reported.

JURISDICTION

The judgment sought to be reviewed was entered May 15, 1933 (R. 37). Motion for rehearing was

denied June 10, 1933 (R. 37). Petition for certiorari was filed in this Court September 6, 1933. Jurisdiction is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether the Corrupt Practices Act of February 28, 1925, is unconstitutional in so far as it requires reports of contributions received for the purpose of influencing the election of Presidential and Vice Presidential electors.

2. Whether the indictment states an offense.

STATEMENT

Petitioners were indicted in the Supreme Court of the District of Columbia under an indictment charging in separate counts failure to report contributions received for the use of their committee, and also with conspiring to commit such substantive offenses (R. 1 et seq.). They demurred to the indictment upon the grounds (1) that the statute upon which the indictment is bedded is unconstitutional, and (2) the indictment fails to state an offense (R. 18). The trial court sustained the demurrer because of the insufficiency of the indictment, and therefore found it unnecessary to pass upon the constitutional question (R. 21). On appeal the judgment of the trial court was reversed, the Court of Appeals holding that the statute is constitutional and the indictment valid (R. 26), one justice dissenting (R. 35).

DISCUSSION.

This case presents a constitutional question of general importance which we think should be decided in advance of any trial below on the merits. Accordingly, we do not oppose the granting of the writ of certiorari.

J. CRAWFORD BIGGS,
Solicitor General.
PAT MALLOY,
Assistant Attorney General.
HARRY S. RIDGELY,
Attorney.

SEPTEMBER 1933.

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